COURT OF APPEALS
DECISION
DATED AND FILED

May 17, 2001

Cornelia G. Clark
Clerk, Court of Appeals
of Wisconsin

No. 00-2932

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT IV

GREGORY C. ROYAL,

PLAINTIFF-APPELLANT,

V.

SARA SEEHAFER,

DEFENDANT-RESPONDENT.

APPEAL from an order of the circuit court for La Crosse County: JOHN J. PERLICH, Judge. *Affirmed.*

¶1 LUNDSTEN, J.[1] Gregory C. Royal appeals the dismissal of his small claims defamation action. He raises three issues on appeal. First, he argues

[1] This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(a) (1999-2000). All references to the Wisconsin Statutes are to the 1999-2000 version unless otherwise noted.

that the circuit court used improper legal standards in dismissing his claim. Second, he contends that Seehafer's attorney acted improperly in refusing to respond to his numerous interrogatories. And finally, he believes he was entitled to submit additional interrogatories to Seehafer at trial after he was informed by the court that his trial would last only twenty minutes. We reject all of Royal's arguments and affirm the trial court's dismissal order.

FACTS

¶2 The dismissed defamation suit in this case arose out of an encounter between the appellant and Sara Seehafer when they were living next door to each other. The nature of the interaction between Royal and Seehafer is disputed. According to Seehafer's written statement to the police, Royal came over to her house and, after informing her about his "open marriage," dropped his shorts and exposed himself to her. Royal's version of the story was that after talking to Seehafer for some time about "sex and Tantra techniques," he gave Seehafer a massage while he was unclothed. Royal told police officers that, at the conclusion of this massage, he returned to his home without incident.

¶3 The criminal case against Royal resulting from Seehafer's indecent exposure complaint was dropped after Seehafer decided not to pursue the matter. Nonetheless, Royal filed a defamation suit against Seehafer in the Lacrosse County small claims court alleging "[l]iable and defamation with regard to a false and misleading complaint made to the [police] ... resulting in harm to [his] business and a police report." His complaint alleged $5,000 in unspecified damages. The case was tried to the court and dismissed.

DISCUSSION

¶4 We review independently a trial court's decision to dismiss a case. ***Evers v. Sullivan***, 2000 WI App 144, ¶5, 237 Wis. 2d 759, 615 N.W.2d 680. As an initial matter, we have often said that we do not consider arguments that are unexplained and undeveloped, or unsupported by citations to authority or references to the record. ***M.C.I., Inc. v. Elbin***, 146 Wis. 2d 239, 244-45, 430 N.W.2d 366 (Ct. App. 1988); ***Lechner v. Scharrer***, 145 Wis. 2d 667, 676, 429 N.W.2d 491 (Ct. App. 1988). Royal's briefs in this case contain not one citation to any legal authority from this or any other jurisdiction.

¶5 Further, "[appellant's] arguments are not developed themes reflecting ... legal reasoning. Instead, the arguments are supported by only general statements. We may decline to review issues inadequately briefed." ***State v. Pettit***, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (Ct. App. 1992). And generally, this court does not consider arguments broadly stated but never specifically argued. ***Fritz v. McGrath***, 146 Wis. 2d 681, 686, 431 N.W.2d 751 (Ct. App. 1988). However, even the most cursory consideration of Royal's arguments on this appeal reveals that they are groundless.

IMPROPER LEGAL STANDARDS

¶6 First, Royal argues that the trial court erred in dismissing his defamation suit based on what he characterizes as two "litmus tests" that were "irrelevant to [his] claim and/or for reasons that were not based in fact or law." Our review is limited to the record, which does not contain a transcript of the court proceedings at the trial of this case and does not enumerate the reasons for that dismissal. However, we find ample reason to affirm the dismissal of the suit.

¶7 The elements of a defamatory communication are: (1) a false statement, (2) the statement is communicated by speech, conduct, or in writing to a person other than the person defamed, and (3) the statement is not privileged and tends to harm one's reputation so as to lower the individual in the estimation of the community or to deter a third person from associating or dealing with that individual. ***Stoll v. Adriansen***, 122 Wis. 2d 503, 517, 362 N.W.2d 182 (Ct. App. 1984). Communications to police officers for the purpose of bringing a criminal to justice are conditionally privileged, providing the remarks were made in good faith without malice. ***Lisowski v. Chenenoff***, 37 Wis. 2d 610, 627-28, 155 N.W.2d 619 (1968); *see also* ***Hartman v. Buerger***, 71 Wis. 2d 393, 398, 238 N.W.2d 505 (1976).

¶8 So far as the record on appeal discloses, Seehafer's statements were conditionally privileged. They were made to police officers in the context of filing a police report. Moreover, nothing in the record indicates that the report was not filed in good faith.

¶9 However, even if this court were not persuaded that the defamation suit lacked merit, we would still affirm the dismissal due to Royal's complete failure to develop cogent arguments in support of his issues. "[Appellant's] brief is so lacking in organization and substance that for us to decide his issues, we would first have to develop them. We cannot serve as both advocate and judge." ***Pettit***, 171 Wis. 2d at 647.

INTERROGATORIES

¶10 Royal's remaining two arguments relate to the aforementioned interrogatories he submitted to Seehafer. Those interrogatories went unanswered. It is worth noting that the interrogatories were highly inflammatory in nature and

covered topics of a personal nature entirely unrelated to Royal's defamation claim. The interrogatories asked Seehafer to name "each and every male visitor" with whom she had "had either sexual intercourse or sexual relations with or [had] been intimate with in the last four years." The interrogatories asked for the names of and her relationship with anyone who had visited her residence for more than two hours.

¶11 The interrogatories asked, among other things, whether Seehafer or any of her friends are "lesbian, bisexual or bi-curious"; whether she had ever smoked a cigarette or used marijuana; whether her parents had ever used any drugs; whether she had been in any bars during the previous twelve months; and the number of times she had mowed the lawn at her residence and the dates of the mowings. They concluded with a series of questions which implied that Seehafer had contacted judges and law enforcement officers in an attempt to persecute Royal, an allegation which is reiterated in Royal's brief, where he characterizes the trial court proceedings as "suspicious."

¶12 Royal was told by Seehafer's attorney that there would be no response to the interrogatories due to their lack of relevance. The trial court apparently agreed, declining to pursue the matter further. Royal states that he reiterated his request that Seehafer answer his interrogatories at trial, and that the trial court rejected all of his questions as irrelevant.

¶13 The standard of review of trial court discovery decisions is whether the court abused its discretion. ***Shibilski v. St. Joseph's Hosp. of Marshfield, Inc.***, 83 Wis. 2d 459, 470-71, 266 N.W.2d 264 (1978). We uphold the discretionary decision of a trial court if we can conclude from the record that facts

existed to support its decision. ***Conrad v. Conrad***, 92 Wis. 2d 407, 415, 284 N.W.2d 674 (1979).

¶14 Seehafer's counsel is correct in pointing out that WIS. STAT. § 804.12(1) provides a remedy for parties who wish to compel responses to interrogatories, and that Royal did not avail himself of that remedy by filing a motion to compel. While Royal did draw the trial court's attention to Seehafer's refusal to answer his interrogatories, he did not do so in the form of a motion to compel and, more significantly, he did not provide the "reasonable notice to other parties" required by the statute.

¶15 As to the court's refusal to submit the interrogatories to Seehafer at trial, we note that evidence is relevant if it has "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." WIS. STAT. § 904.01. It appears that the trial court determined that the interrogatories in question would not elicit relevant evidence and declined to subject Seehafer to them. We can find no reason to overturn this determination.

By the Court.—Order affirmed.

This opinion will not be published. WIS. STAT. RULE 809.23(1)(b)4.